Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Text

UNCLASSIFIED

PAGE 01 VANCOU 00410 282221Z

61
ACTION L-03

INFO OCT-01 EUR-25 ISO-00 IO-14 SS-20 NSC-07 SP-03 DLOS-07

SCI-06 INT-08 EPA-04 CEQ-02 CIAE-00 INR-10 NSAE-00

RSC-01 DRC-01 /112 W
---------- 077322
P 282147Z JUN 74
FM AMCONSUL VANCOUVER
TO SECSTATE WASHDC PRIORITY 1684
INFO AMEMBASSY OTTAWA PRIORITY

UNCLAS VANCOUVER 0410

E.O. 11652: N/A
TAGS: SENV, ENRG, CA
SUBJECT: SKAGIT RIVER VALLEY FLODDING

BRITISH COLUMBIA PROVINCIAL GOVERNMENT MADE FORMAL REQUEST JUNE 27 UNDER SECTION 12(3) OF THE RULES OF PROCEDURE TO THE INTERNATION JOINT COMMISSION WHICH SUMMARIZED BELOW. TEXT OF SEVEN-PAGE REQUEST BEING TRANSMITTED BY AIRGRAM.

QUOTE

1. THAT THE ORDER IS A NULLITY BECAUSE THE HEARING IN 1941 WAS CONDUCTED BY LESS THAN A MAJORITY OF THE COMMISSION, AND BECAUSE THE MAJORITY OF THE COMMISSION MAKING THE SUBSEQUENT 1942 ORDER INCLUDED ONE MEMBER WHO DID NOT HEAR THE EVIDENCE, NOR WAS HE PRESENT AT THE HEARING, CONTRARY TO THE BOUNDARY WATERS TREATY.

2. THAT SINCE THE I.J.C. DID NOT PROPERLY CONSIDER SEATTLE'S 1941 APPLICATION, THE 1942 ORDER IS A NULLITY AND SEATTLE'S 1941 APPLICATION REMAINS TO BE ADJUDICATED UPON.

3. THAT SINCE APPROVAL OF SEATTLE'S 1941 APPLICATION
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 VANCOU 00410 282221Z

WAS SOLICITED BY SEATTLE AND ACQUIESCED IN BY THE

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

PROVINCE ON THE GROUNDS OF A NATIONAL EMERGENCY INVOLVING THE WAR EFFORT , AND SINCE THE RAISING OF THE SKAGIT WATER LEVEL DID NOT OCCUR DURING THE PERIOD OF NATURAL EMERGENCY, THE RAISING OF SKAGIT WATER LEVEL IS NOT PRESENTLY JUSTIFIED ON THESE GROUNDS, OR AT ALL.

4. THAT IN FOCUSING ATTENTION ON THE NATIONAL EMERGENCY, THERE WAS A FAILURE TO CONSIDER OTHER FACTORS, INCLUDING ENVIRONMENTAL DAMAGES AND CONSEQUENCES IN CANADA, AND THE COMMISSION THEREFORE FAILED TO EXERCISE ITS JURISDICTION AND THE ORDER IS A NULLITY.

5. THAT IN 1953 SEATTLE VIOLATED THE BOUNDARY WATERS TREATY BY RAISING THE NATURAL LEVEL OF THE SKAGIT RIVER IN CANADA WITHOUT APPROVAL OF THE I.J.C. AND PRIOR TO COMPLYING WITH THE 1942 ORDER, AND THAT SINCE THE PROVINCES'S INTERESTS WERE NOT ADEQUATELY PROTECTED, THE SKAGIT RIVER WATER LEVELS SHOULD BE RESTRICTED TO THE NATURAL LEVEL AT THE BOUNDARY.

6. THAT THE INTERIM AGREEMENTS FOR THE YEARS 1954 TO 1966, AS WELL AS THE 1967 AGREEMENT, BETWEEN THE PROVINCE AND SEATTLE, ARE EACH A NULLITY BECAUSE THE 1942 ORDER IS A NULLITY, AND MOREOVER THE 1942 ORDER VIOLATES THE BOUNDARY WATERS TREATY IN THAT IT PURPORTS TO DELEGATE TO THE PROVINCE AND TO SEATTLE MATTERS IN THE EXCLUSIVE JURISDICTION OF I.J.C., NAMELY THE DETERMINATION OF THE PROTECTION AND INDEMNITY OF ALL INTERESTS IN CANADA AFFECTED BY RAISING THE SKAGIT RIVER WATER LEVELS.

7. THAT THE 1967 AGREEMENT BETWEEN THE PROVINCE AND SEATTLE IS A NULLITY IN THAT IT PURPORTS TO USURP OR OUST THE JURISDICTION OF THE I.J.C., NAMELY BY PROVIDING FOR ADDITIONAL FLODDING IN CANADA ABOVE THAT PROVIDED IN THE 1942 ORDER, AND BY PROVIDING FOR A BOARD OF ARBITRATION TO CONSIDER DIFFERENCES,

UNCLASSIFIED

UNCLASSIFIED

AND FURTHER THAT THE 1967 AGREEMENT WAS NOT ADOPTED OR APPROVED BY THE I.J.C. PURSUANT TO THE PROVISIONS OF THE BOUNDARY WATERS TREATY REQUIRING DUE NOTICE AND OPPORTUNITY TO BE HEARD FOR ALL INTERESTED PARTIES.

THE PROVINCE THEREFORE REQUESTS THE COMMISSION, AFTER A HEARING OF ALL INTERESTED PARTIES IN THE

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

UNITED STATES AND CANADA, TO DECLARE THE 1942 ORDER
A NULLITY AND DISMISS SEATTLE'S 1941 APPLICATION, OR TO
RESCIND THE 1942 ORDER AND DISMISS SEATTLE'S APPLICATION,
OR TO DECLARE THE RAISING OF THE NATURAL LEVEL OF THE
SKAGIT 130 FEET AT THE INTERNATIONAL BOUNDARY TO BE
CONTRARY TO THE PUBLIC INTERESTS OF CANADA AND THE
UNITED STATES ON THE GROUND THAT NO SUITABLE OR ADEQUATE
PROVISION CAN BE MADE FOR THE PROTECTION AND INDEMNITY
OF INTERESTS WHICH MAY BE INJURED BY REASON OF THE
PROPOSED RAISING, AND TO ISSUE A FURTHER ORDER
LIMITING THE LEVEL OF THE WATERS OF THE SKAGIT RIVER
AT THE INTERNATIONAL BOUNDARY TO ITS NATURAL LEVEL.
THE COMMISSION IS ALSO REQUESTED TO DECLARE THE 1967
AGREEMENT BETWEEN THE PROVINCE AND SEATTLE INVALID,
AND TO DIRECT SEATTLE, PENDING THE ADJUDICATION OF THE PROVINCE'S
REQUEST, TO TAKE NO STEPS TO RAISE THAT NATURAL LEVELS
OF THE SKAGIT RIVER AT THE INTERNATIONAL BOUNDARY.

UNQUOTE
STUTESMAN

UNCLASSIFIED

NNN

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FLOODS, FLOOD CONTROL, SKAGIT RIVER VALLEY
Control Number: n/a
Copy: SINGLE
Draft Date: 28 JUN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974VANCOU00410
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740172-0554
From: VANCOUVER
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974062/aaaaabdl.tel
Line Count: 135
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: martinjw
Review Comment: n/a
Review Content Flags:
Review Date: 29 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 AUG 2002 by PhilliR0>; APPROVED <14 JAN 2003 by martinjw>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SKAGIT RIVER VALLEY FLODDING BRITISH COLUMBIA PROVINCIAL GOVERNMENT MADE FORMAL
TAGS: SENV, ENRG, CA
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005